

Proposed Amendments to the Shoreland Zoning Ordinance and the Insect Growth Regulator and Insecticide Application Control Ordinance Dealing with the Use of Pesticides and Fertilizers

Proposed additions to the ordinances are underlined;
proposed deletions are ~~struck-through~~

1. Amend Section 15.21 Non-Agricultural Fertilizer Use in the Shoreland Zoning Ordinance to read as follows:

15.21. ~~Non-agricultural~~ Fertilizer Use

~~15.21.1. The use of fertilizers is regulated by the Outdoor Pesticides Control and Fertilizer Use Ordinance. Chemical fertilizer, sludge or non-composted manure may be applied to within two hundred fifty (250) feet of the maximum high water line of a great pond, stream, tributary stream, HAT of the coastal wetland or the upland edge of a freshwater wetland.~~

~~15.21.2. Organic fertilizer or composted manure may be applied to within twenty-five (25) feet of the maximum high water line of a great pond, stream, tributary stream, HAT of the coastal wetland or the upland edge of a freshwater wetland.~~

2. Amend the title of the Insect Growth Regulator and Insecticide Application Control Ordinance to be the Outdoor Pesticides Control and Fertilizer Use Ordinance

3. Amend the Insect Growth Regulator and Insecticide Application Control Ordinance (proposed Outdoor Pesticides Control and Fertilizer Use Ordinance) to read as follows:

Section 1. Purpose

Scientific studies have shown that certain Insect Growth Regulators, neonicotinoids and insecticides adversely affect aquatic invertebrates, especially molting shellfish such as lobsters and crabs. In addition to harming shellfish, these chemicals may interfere with beneficial insect species such as ~~honey~~-bees and lepidopteran pollinators (moths and butterflies). The Town of Harpswell is comprised of approximately 216 ~~over 200~~ miles of coastline, numerous islands and narrow peninsulas such that discharges and runoff from inland areas are extremely close to coastal waters. The application of water soluble fertilizers is apt to runoff into the sea and overload it with nitrogen that causes algal blooms and coastal acidification which affect shellfish by inhibiting their shell formation. The purpose of this Ordinance is to establish regulations that will aid the Town in protecting and maintaining the health of its shellfish resources, ~~and~~ marine environment, and pollinators.

Section 2. Definitions

Aerial Spraying – Spraying by airplane.

Certified Applicator – a person who applies pesticides, has passed certification exams and is licensed by the Maine Board of Pesticides Control.

“Insect Growth Regulator” – ~~means any a~~ substance or mixture of substances including, but not limited to, azadirachtin, diflubenzuron, and tebufenozide that act to disrupt the action of insect hormones by interrupting or inhibiting the life cycle of insects.

“Insecticide”~~means~~ – a substance or mixture of substances intended to prevent, destroy, repel or mitigate insects.

Neonicotinoid – a class of neuro-active insecticides including, but not limited to, acetamiprid, clothianidin, imidacloprid, nitenpyram, nithiazine, thiacloprid, and thiamethoxam.

Pesticide – any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest; any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; and any nitrogen stabilizer. Herbicides, fungicides, insecticides, and rodenticides are considered pesticides.

It does **not** include multicellular biological controls such as mites, nematodes, parasitic wasps, snails or other biological agents not regulated as pesticides by the U.S. Environmental Protection Agency.

Weed and Feed Fertilizer – a mixture of fertilizer and pesticide.

Section 3. Prohibitions on Pesticide Use

The ~~following outdoor use of the following pesticides~~ is prohibited in the Town of Harpswell ~~except for use in conjunction with~~ in commercial agriculture, nurseries, or golf courses.

~~a)~~**A** the use and/or application by any person by any method whatsoever of any Insect Growth Regulator (IGR) as defined, or;

~~b)~~**B** the aerial spraying-broadcast application of any Insect Growth Regulator or Insecticide whose product label indicates that it is harmful to aquatic invertebrates.

c) no use of a pesticide shall be permitted within twenty-five (25) feet of the maximum high water line of a great pond, stream, tributary stream, the highest annual tide (HAT) of the coastal wetland or the upland edge of a freshwater wetland.

d) the use and/or application by any person, by any method whatsoever of any

neonicotinoid insecticide whose product label indicates that it is harmful to bees or aquatic invertebrates is subject to the following restrictions:

i) Between twenty-five (25) and two hundred fifty (250) feet, the use of a neonicotinoid regulated by this ordinance must be done by a certified applicator. Uses permitted by certified applicators will be limited to stem injection or painting on wind pollinated trees or plants.

ii) Outside of the two hundred fifty (250) foot shoreland zone, neonicotinoids may be applied only by stem injection into wind pollinated trees or plants; Other application methods will not be restricted if applied by a certified applicator.

Section 4. Use of Licensed Pesticide Applicators

Applications of neonicotinoids within the two hundred fifty (250) foot shoreland zone shall be done by a certified applicator.

Any application, for which compensation is paid, of general use pesticides, restricted pesticides, or weed and feed fertilizer, shall be done by a certified applicator.

Citizen's Note: The Maine Board of Pesticides Control requires that applicators of pesticides be licensed in certain situations. This includes the use of any pesticide as a service for which compensation is received.

Section 5. Fertilizer Use Limitation

The use of fertilizers, except in conjunction with agricultural, nursery, or golf course uses, is subject to the following limitations:

a) Within the shoreland zone:

i) no fertilizer shall be applied within twenty-five (25) feet of the maximum high water line of a great pond, stream, tributary stream, the highest annual tide (HAT) of the coastal wetland or the upland edge of a freshwater wetland.

ii) Between twenty-five (25) and two hundred fifty (250) feet, only non-water soluble fertilizer, compost, or composted manure may be applied.

b) Outside of the two hundred fifty (250) foot shoreland zone, water soluble chemical fertilizer, sludge or non-composted manure may be applied in addition to those allowed in (ii).

Section 6. Exemptions

The following are exempt from the provisions of this Ordinance:

- a) Commercial agriculture;
- b) Nurseries;

- c) Golf Courses;
- d) Indoor use;
- e) Pet supplies such as shampoos, tick and flea collars and dusts;
- f) Insect repellents;
- g) Aerosol products; and
- h) Applications mandated by state or federal law.

Section 647. Random Sampling

When a violation of the provisions of this ordinance is suspected, Upon the request of the Code Enforcement Officer may require that the, any person, firm, or corporation that is, being the owner of or having control or use of any Harpswell the property, shall provide the Town with soil or leaf samples from a location on the property specified by the Code Enforcement Officer in sufficient quantity to permit laboratory testing of the soil or leaf in order to check for the presence of any Insect Growth Regulator (IGR) that prevents molting or inhibits exoskeletal formation contains diflubenzuron or tebufenozide, or any neonicotinoid or insecticide whose product label indicates that it is harmful to aquatic invertebrates or bees.

Section 58. Violations

A person, firm, or corporation who uses or applies or causes to be used or applied any Insect Growth Regulator or Insecticide in violation of this ordinance shall be subject to a fine of fined not less than \$1,000 nor more than \$2,500 for the first violation of this Ordinance. A fine of not less than \$2,501 nor more than \$5,000 shall be levied against any person, firm, or corporation violating this Ordinance for the second and each subsequent violation. Refusal to comply with the Code Enforcement Officer's sampling request shall result in a fine of not less than \$1,000 and may result in further action by the Town and its Code Enforcement Officer in seeking an administrative inspection warrant for the property.

Section 69. Enforcement

This Ordinance shall be enforced by the Code Enforcement Officer. The Code Enforcement Officer is hereby authorized to institute or cause to be instituted, in the name of the Town, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of this Ordinance.

Section 710. Severability

To the extent any provision of this Ordinance is deemed invalid by a court of competent jurisdiction, the balance of the Ordinance shall remain valid.

Section 11. Table of Prohibitions

HARPSWELL PESTICIDE/FERTILIZER PROHIBITIONS AND DISTANCE FROM WATER			
	SHORELAND ZONE		OUTSIDE SHORELAND ZONE
CLASS OF PESTICIDE/ FERTILIZER	25' BUFFER	25' - 250'	OVER 250'
IGR: hormone disruptors	X	X	X
Neonicotinoids: Label indicates harmful to pollinators or aquatic invertebrates	X	<u>Restricted</u> Application only by Certified Pesticide Applicator	Stem injection into wind pollinated plants
			Other application methods by Certified Pesticide Applicator
All other pesticides	X	No restrictions	No restrictions
Fertilizer	X	Compost	No restrictions
		Non-water soluble fertilizer	

X = Use prohibited

The following are exempt from the provisions of this Ordinance:

- Commercial agriculture;
- Nurseries;
- Golf Courses;
- Indoor use;
- Pet supplies such as shampoos, tick and flea collars and dusts;
- Insect repellents;
- Aerosol products; and
- Applications mandated by state or federal law.